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2 UNITED STATES DISTRICT COURT  
3 DISTRICT OF NEVADA

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6 TRAVELERS CASUALTY AND SURETY  
7 COMPANY OF AMERICA,

8 Plaintiffs,

9 vs.

10 BIG TOWN MECHANICAL, LLC, *et al.*,

11 Defendants.

2:12-cv-02072-LRH-VCF

**ORDER**

[Motion to Withdraw As Counsel (#25)]

12 This matter is before the court on the Motion to Withdraw As Attorneys of Record for  
13 Defendants (#25) filed July 29, 2013.

14 **Relevant Background**

15 Plaintiffs filed a Complaint on December 5, 2012. (#1). Defendants filed an Answer on  
16 February 13, 2013. (#16). On March 28, 2013, the Discovery Plan and Scheduling Order was filed and  
17 approved by the Court on March 29, 2013. (#'s 18 & 19). The parties filed their Joint Status Report on  
18 June 12, 2013. (#22). On June 18, 2013, the Court scheduled a settlement conference for October 7,  
19 2013. (#24). Defendants' counsel, D. Shane Clifford, Esq., filed a Motion to Withdraw as Attorneys of  
20 Record for Defendants on July 29, 2013. (#25). On August 15, 2013, Plaintiff filed a Motion for  
21 Summary Judgment. (#26).

22 **Motion to Withdraw As Attorneys**

23 In the Motion to Withdraw as Attorneys of Record for Defendants, Mr. Clifford asserts that good  
24 cause for withdrawal exists because "Defendants' counsel is no longer able to effectively represent said  
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1 Defendants due to their failure to pay any legal costs and fees associated with their representation in this  
2 matter.” (#25).

3 **Discussion**

4 Local Rule IA 10-6 provides that “no withdrawal . . . shall be approved if delay of discovery, the  
5 trial or any hearing in the case would result.” This action was filed on December 5, 2012 (#1), no trial  
6 date has been entered for this matter; therefore, there would not be a delay if Defendants’ counsel  
7 withdraw at this stage.

8 To date, Plaintiffs have not filed an opposition to the Motion to Withdraw As Counsel. Local  
9 Rule 7-2(d) states that “[t]he failure of an opposing party to file points and authorities in response to any  
10 motion shall constitute a consent to the granting of the motion.”

11 The Court recognizes that good cause exist for counsel to withdraw from this action; however,  
12 the Court also recognizes that there is a Motion for Summary Judgment (#26) pending. 28 U.S.C. §  
13 1654 provides that “[i]n all courts of the United States the parties may plead and conduct their own cases  
14 personally.” See *C.E. Pope Equity Trust v. United States*, 818 F.2d 696, 697 (9th Cir. 1987). Although  
15 individuals may represent themselves pursuant to this statute, a corporation is not permitted to appear in  
16 Federal Court unless it is represented by counsel. *U.S. v. High Country Broadcasting Co., Inc.*, 3 F.3d  
17 1244, 1245 (9th Cir. 1993). An individual also does not have the right to appear on behalf of anyone  
18 other than himself. *Pope*, 818 F.2d at 697. The Ninth Circuit has permitted motions to strike and  
19 motions to dismiss pleadings filed by *pro se* parties on behalf of entities including trusts. *Id.* at 698;  
20 *United States v. Nagy*, C11-5066BHS, 2011 WL 3502488 (W.D. Wash. Aug. 10, 2011). The Court thus  
21 advises Defendants Big Town Mechanical, LLC, Big Town Service, LLC, Big Town Mechanical Corp.,  
22 Liberty Duct, LLC, B.B.H., LLC, J&H Barton Family Trust Dated March 8, 2000, and McNulty Family  
23 Trust Dated February 8, 2006 that they may not proceed *pro se*, because corporations and trusts must be  
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1 represented by counsel. *See Simon v. Hartford Life and Accident Ins. Co.*, 546 F.3d 661, 664-65 (9th  
2 Cir.2008).

3 Accordingly, and for Good Cause Shown,

4 IT IS HEREBY ORDERED:

- 5 1. The Motion to Withdraw As Counsel (#25) is GRANTED.
- 6 2. Defendants Big Town Mechanical, LLC, Big Town Service, LLC, Big Town Mechanical  
7 Corp., Liberty Duct, LLC, B.B.H., LLC, J&H Barton Family Trust Dated March 8, 2000,  
8 and McNulty Family Trust Dated February 8, 2006 will have until September 30, 2013,  
9 in which to retain new counsel who must file a notice of appearance in accordance with  
10 the Local Rules of Practice.
- 11 3. Failure to comply with this order may result in a recommendation to the District Judge  
12 for sanctions, including case-dispositive sanctions.
- 13 4. The Clerk of Court will serve a copy of this Order on
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15 James A. Barton  
16 2000 Western Ave.  
Las Vegas, Nevada 89102

17 Kenneth McNulty  
18 2000 Western Ave.  
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19 Jamie McNulty  
20 2000 Western Ave.  
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21 Big Town Mechanical, LLC  
22 2000 Western Ave.  
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23 Big Town Service, LLC  
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1 Big Town Mechanical Corp.  
2 2000 Western Ave.  
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3 Liberty Duct, LLC  
4 2000 Western Ave.  
5 Las Vegas, Nevada 89102

5 B.B.H., LLC  
6 2000 Western Ave.  
7 Las Vegas, Nevada 89102

7 J&H Barton Family Trust Dated March 8, 2000  
8 2000 Western Ave.  
9 Las Vegas, Nevada 89102

9 McNulty Family Trust Dated February 8, 2006  
10 2000 Western Ave.  
11 Las Vegas, Nevada 89102

12 DATED this 27th day of August, 2013.



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CAM FERENBACH  
UNITED STATES MAGISTRATE JUDGE